

March 10, 2010

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, March 10, 2010, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
FREDERICK E. EBERLY, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
THOMAS H. MILLER, JR., County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WENDELL J. EBERLY, Director of Recreation & Facilities
WARREN G. HEIDT, Director of Public Works
FRANKLIN P. O'BYRNE, Director of Information Systems
STEPHEN N. RIDDLEBARGER, Director of Human Resources
ROBERT A. SYMONS, Fire & Rescue Chief
DIANA C. STULTZ, Zoning Administrator
TAMELA S. GRAY, Deputy Clerk

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CALL TO ORDER
INVOCATION
PLEDGE OF ALLEGIANCE.

Chairman Cuevas called the meeting to order at 3:01 p.m.

Supervisor Breeden gave the Invocation and Director of Public Works Heidt led the Pledge of Allegiance.

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APPROVAL OF MINUTES.

On motion by Supervisor Floyd, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the regular meeting of February 24, 2010.

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RESOLUTIONS OF APPRECIATION.

Administrator Paxton read the following resolution honoring Dr. Phillip C. Stone:

RESOLUTION HONORING DR. PHILLIP C. STONE UPON HIS RETIREMENT AS PRESIDENT OF BRIDGEWATER COLLEGE

WHEREAS, Dr. Phillip C. Stone has served as President of Bridgewater College since August 1, 1994; and

WHEREAS, during the tenure of President Stone the appeal of the College to prospective and existing students has been enhanced and broadened to such an extent that enrollment has grown more than 80%, from 882 students in the fall of 1994 to 1,590 in the fall of 2009, increasing the economic importance of Bridgewater College to the County; and

WHEREAS, the nationally-recognized Personal Development Portfolio Program was developed by President Stone and implemented early in his term as president, enhancing Bridgewater College's emphasis on broadly-educating the whole person, placing increased focus on the areas of intellectual growth and discovery, citizenship and community responsibility, ethical and spiritual growth, and emotional maturation and physical health; and

WHEREAS, President Stone's tenure has seen important improvements to the College's physical infrastructure, including construction of the McKinney Center for Science and Mathematics, the Funkhouser Center for Health and Wellness, the Wampler Towers apartments, acquisition of the property now named the Carter Center for Worship and Music, the acquisition of the Bridgewater College Equestrian Center, along with major renovations of the Kline Campus Center dining hall, lounge, and the Eagle's Nest; and

WHEREAS, President Stone's emphasis on campus beautification, including the tree-lined mall, brick entryways to campus along Dinkel Avenue, and the architecture of newly-constructed buildings in the past fifteen years, has contributed to the growth and beauty of the Town of Bridgewater; and

WHEREAS, President Stone has increased the stature of Bridgewater College and Rockingham County throughout the nation by his distinguished service on many boards and associations, including serving on numerous boards for the National Collegiate Athletic Association (NCAA), serving as President of the Virginia Bar Association, serving on the Southern Association of Colleges and Schools (SACS) including tenure as chair, board member with the Bridgewater HealthCare Foundation, Inc., board member with Rockingham Memorial Hospital, visiting professor of Philipps University in Marburg, Germany, member of the board of trustees of Bethany Theological Seminary, member of the Commonwealth of Virginia Transportation Board, founder and president of the Lincoln Society of Virginia, President of the Council of Independent Colleges in Virginia, and numerous additional positions of leadership to the benefit of the College and County's name recognition and reputation.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Rockingham County does hereby recognize the many contributions to the community by Dr. Phillip C. Stone and congratulate him upon his retirement as President of Bridgewater College, acknowledging the exemplary manner in which he has led the College, and served this community and the Commonwealth; and

BE IT FURTHER RESOLVED, that the Board of Supervisors expresses its sincere appreciation to Dr. Phillip C. Stone for furthering Bridgewater College's commitment to excellence in higher education, educating the students to become well-rounded members of society, contributing to a strong and diverse local economy, and providing many cultural and educational opportunities for local citizens.

Supervisor Kyger thanked Dr. Stone for his contributions to the community and interest in local history. Chairman Cuevas presented Dr. Stone with a framed resolution.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the resolution in recognition of Dr. Phillip C. Stone.

Administrator Paxton read the following resolution in honor of Charles W. Wampler, Jr.:

R E S O L U T I O N

WHEREAS, Charles W. Wampler, Jr., 94, has devoted his life to serving the people of the Shenandoah Valley and the Commonwealth of Virginia; and

WHEREAS, as one of the founding members of Wampler Foods, Inc., together with his brother, William, Mr. Wampler helped to establish the poultry industry as a critical component of the Rockingham County economy; with Rockingham County currently the largest agriculture-producing county in the Commonwealth, as measured by the sale of agricultural products; and

WHEREAS, Mr. Wampler's impact on the agriculture industry is unparalleled, serving eight years on the Virginia Board of Agriculture, six as its President; serving 25 years as President and General Manager of the Rockingham County Fair Association; and, by helping to establish the State Fair of Virginia and serving on its Board and Executive Committee for 25 years; and

WHEREAS, from 1954 until 1966, Mr. Wampler served the people of Rockingham County as a member of the Virginia House of Delegates, serving on the Agriculture and Finance Committees, and as Chair of the Labor Committee; and

WHEREAS, Mr. Wampler has been an exemplary leader in education, serving two terms as a member of the James Madison University Board of Visitors, including terms as Rector and Vice Rector during his tenure, and two terms as a member of the Virginia Tech Board of Visitors, and as a member of the Rockingham County School Board; and

WHEREAS, Mr. Wampler has been a visionary leader in this community, as co-founder and first Chairman of the United Fund, the precursor to the United Way of Harrisonburg and Rockingham; as Chairman of the Board for the Rockingham Memorial Hospital (RMH) Foundation from 1971 until 1984; and, by serving as a Co-Chair of the fund drive for the Regional Cancer Center at RMH; and

WHEREAS, Mr. Wampler continues to lead by example in service to his community by volunteering at RMH four times each week, and by his donation to date of 22 gallons of blood to the Virginia Blood Bank; and

WHEREAS, the Harrisonburg and Rockingham County community is a better place to live, work and raise our families because of the many contributions and tireless efforts of Charles W. Wampler, Jr.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Rockingham, Virginia, that said Board does hereby express its great appreciation and gratitude to Charles W. Wampler, Jr. for his dedication and commitment to this community; and

BE IT FURTHER RESOLVED that the Board of Supervisors expresses its sincere wishes to him for his continued good health in the coming years.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE;

EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board approved the resolution in recognition of Charles W. Wampler, Jr.

Chairman Cuevas expressed appreciation to Charles W. Wampler, Jr. for his support of a large variety of activities in the County and State, and he presented Mr. Wampler with a framed resolution.

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RECOGNITION OF STUDENTS.

Students from Eastern Mennonite High School introduced themselves.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Administrator Paxton's staff report dated March 4, 2010.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Heidt's staff report dated March 10, 2010.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report.

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INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. O'Byrne's staff report dated March 4, 2010.

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FIRE AND RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Symons staff report dated March 3, 2010. Chief Symons reviewed a request to submit a grant proposal for pagers and

advanced life support training manikins. On January 1, 2013 radio license frequency requirements will change and the County's current pagers will no longer work. Chief Symons is being proactive in seeking grants early to purchase new pagers.

Supervisor Kyger made a motion that the Board approve the submission of a grant proposal through the Rescue Squad Assistance Fund (RSAF). Supervisor Floyd seconded the motion.

In response to a question from Chairman Cuevas, Chief Symons reported that the pagers currently used by Fire and Rescue were purchased four years ago with a grant. He believes many organizations around the state will apply for grants this year and said the County will apply for additional grants to help fully fund the new pagers.

By a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the submission of a grant proposal through the Rescue Squad Assistance Fund (RSAF) to purchase 300 Motorola Minitor V pagers, three Adult Airway trainers and an Advanced Life Support Baby airway trainer. The request will be for 100% funding with no local match.

Administrator Paxton advised that Fire and Rescue recently filled two positions with graduates from the Massanutten Technical Center's Fire and Rescue program that Chief Symons and Mr. Riddlebarger helped to develop. Chief Symons reported that this program was implemented four years ago, and a total of five students have been hired to date by the County and City. In response to a question from Supervisor Kyger, Chief Symons noted that all of the students continue to volunteer and three students from last year's class are continuing their education in the field of paramedics or emergency management.

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RECREATION AND FACILITIES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Eberly's staff report dated March 5, 2010.

Mr. Eberly reported that the County received the following bids for natural gas:

Company	Year One Price	Year Two Price
Columbia Gas of Virginia	\$0.7284 per Ccf	\$0.7887 per Ccf
Washington Gas & Energy	\$0.6350 per Ccf	\$0.7060 per Ccf
Bollinger Energy Corp.	\$0.5747 per Ccf	\$0.6092 per Ccf

The natural gas bid was awarded to Bollinger Energy Corporation and will go into effect April 1, 2010. The current rate with Washington Gas is .62 cents per Ccf.

Mr. Eberly reported that the County should save approximately \$20,000 next year, depending on the weather.

Deputy Administrator King highlighted necessary repairs which were not related to snow damage, but normal wear and tear. Money has been expended to repair a boiler at the Bergton Community Center. The Building and Grounds Committee will repair a deteriorating roof-level cornice at the jail in this fiscal year. The Committee is not submitting a supplemental request at this time, but informed the Board of this expenditure in case they need to request funds later. Mr. King noted that the City will pay 50% of the repairs at the Jail.

Supervisor Eberly stated the Building and Grounds Committee has done well with repairs considering the number of buildings the County owns. Chairman Cuevas expressed appreciation to the Facilities and Maintenance personnel for their work.

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RESOLUTION – SHENANDOAH VALLEY RAILROAD.

Administrator Paxton advised that the Shenandoah Valley Railroad Company annually requests a resolution to attach to the Virginia Department of Rail and Public Transportation application.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following resolution requesting the Virginia Department of Rail and Public Transportation give priority consideration to the projects proposed by the Shenandoah Valley Railroad Company totaling \$125,916.00 for this funding cycle:

RESOLUTION RAIL PRESERVATION APPLICATION SHENANDOAH VALLEY RAILROAD COMPANY

WHEREAS, the Shenandoah Valley Railroad Company (SVRR) desires to file an application with the Virginia Department of Rail and Public Transportation to rehabilitate areas of poor trackage and drainage in addition to installation of 500 railroad ties, 120 switch ties, 1,000 tons of ballast, and to construct an additional 100 ft of track storage, and #8 turnout, to handle the current and additional growth; and

WHEREAS, the General Assembly, through enactment of the Rail Preservation Program, provides for rehabilitation funding for improvement of railways in the Commonwealth of Virginia; and

WHEREAS, the SVRR is an important element of the Rockingham County transportation system; and

WHEREAS, the SVRR is instrumental in the economic development of the Rockingham County area, and provides relief to the highway system by transporting freight, and provides an alternate means of transporting commodities; and

WHEREAS, the County of Rockingham supports the project and the retention of the rail service along this rail corridor; and

WHEREAS, the Commonwealth Transportation Board has established procedures for all allocation and distribution of the funds provided; and

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors does hereby request the Virginia Department of Rail and Public Transportation to give priority consideration to the projects proposed by the Shenandoah Valley Railroad Company totaling \$125,916.00 for this funding cycle.

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COMMITTEE REPORTS.

CENTRAL SHENANDOAH PLANNING DISTRICT COMMISSION (CSPDC)

In response to a question from Supervisor Floyd, Administrator Paxton noted that the County will not know how much money will be allocated to the CSPDC until the State budget is finalized. Several years ago the CSPDC requested that each locality consider a staged increase in their allocation. The CSPDC asked for an increase this year but several jurisdictions informed the CSPDC that increases would probably not be given to any regional groups this year.

CHAMBER OF COMMERCE

Chairman Cuevas distributed positions adopted by the Chamber of Commerce regarding agricultural and forestry issues, healthcare, tax policy and transportation. The Chamber plans to take positions on additional topics which will be shared with the Board.

COMMUNITY CRIMINAL JUSTICE ADMINISTRATIVE ADVISORY BOARD

Chairman Cuevas asked Administrator Paxton to coordinate with Ann Marie Freeman to schedule a meeting with the Judges to update them on the Comprehensive Services Act program.

FINANCE

On motion by Supervisor Breeden, seconded by Supervisor Kyger, and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following supplemental appropriation as recommended by the Finance Committee:

GENERAL FUND APPROPRIATION

Land Use Assessment

A supplemental appropriation of \$2,245 to send revalidation notices. Funding would be provided from the Contingency Fund.

Supplemental Appropriation: \$2,245

\$ 1,720	GL Code: 001-01224-000-5201-000	Postage
\$ 525	GL Code: 001-01224-000-3500-000	Printing & Binding
(\$ 2,245)	GL Code: 001-09110-000-5800-000	Contingency Fund

On motion by Supervisor Breeden, seconded by Supervisor Eberly, and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following supplemental appropriation as recommended by the Finance Committee:

ASSET FORFEITURE FUND APPROPRIATION

Sheriff's Department

A supplemental appropriation of \$1,800 for expenses associated with the 17th Annual SWAT Competition. Funding will be provided from the asset forfeiture revenue received.

Supplemental Appropriation: \$1,800

\$ 1,550	GL Code: 211-03507-000-5504-000	Professional Development
\$ 250	GL Code: 211-03507-000-5801-000	Dues & Association Memberships
\$ 1,800	GL Code: 211-02407-0100	Asset Forfeiture Revenue – Sheriff

On motion by Supervisor Breeden, seconded by Supervisor Kyger, and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE;

EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following supplemental appropriation as recommended by the Finance Committee:

HARRISONBURG – ROCKINGHAM SOCIAL SERVICES DISTRICT FUND APPROPRIATIONS

Non View Daycare

A supplemental appropriation of \$30,319 for the Non View Daycare program. This is 100% funded by the federal government and local funds are not required.

Supplemental Appropriation: \$30,319

\$30,319	GL Code: 220-05302-100-5758-000	CDC Fee at Risk-County
\$30,319	GL Code: 220-03303-0100	Public Assistance-Federal Revenue

On motion by Supervisor Breeden, seconded by Supervisor Floyd, and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following supplemental appropriation as recommended by the Finance Committee:

GENERAL FUND APPROPRIATION

GIS Department

A supplemental appropriation of \$5,000 to assist in restoring the GIS database. Staff recommended executing a Letter of Agreement with Timmons Group at a cost not to exceed \$7,060. Funding would be provided by \$2,060 from the GIS budget and a \$5,000 supplemental appropriation from the contingency.

Supplemental Appropriation: \$5,000

\$ 5,000	GL Code: 001-08104-000-3109-000	Other Professional Services
\$(5,000)	GL Code: 001-09110-000-5800-000	Contingency

Administrator Paxton provided an update on the budget. If the General Assembly approves the budget this week and adjourns on Saturday, the County expects to receive detailed budget information by March 18 or 19, 2010. Staff will need a week to prepare a recommendation for the Finance Committee and Board. If the County budget is completed for recommendation from the Board by April 2, 2010, there is sufficient time to advertise for the scheduled public hearing on April 14, 2010. In case the schedule is delayed, Supervisor Kyger will confirm that Turner Ashby High

School is available to host the public hearing on the budget and proposed 2010 tax rates on April 21, 2010 at 6:00 p.m. The budget must be approved by April 28, 2010 so that the School Board can issue contracts to school employees on May 1. Administrator Paxton asked Board members to inform him or Mr. Allmendinger if they will not be available to meet regarding the budget on April 1 or 2, 2010.

SOCIAL SERVICES

Chairman Cuevas advised that Administrator Paxton will schedule a presentation by Social Services Director Donald D. Driver after the budget is finalized.

VIRGINIA ASSOCIATION OF COUNTIES (VACo)

A VACo Regional Meeting will be held on March 25, 2010 at James Madison University. Supervisor Kyger noted that other counties in the region have been invited to attend.

General Assembly Conferees continue to meet regarding the state budget. At this point conferees are deadlocked over revenue issues, so the session may be extended, Supervisor Kyger said.

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CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board recessed the meeting from 3:46 p.m. to 4:20 p.m., for a closed meeting pursuant to Section 2.2-3711.A(5), Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; (7), Consultation with legal counsel and staff members pertaining to actual or probable litigation where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the County; and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel.

MOTION: SUPERVISOR KYGER
SECOND: SUPERVISOR FLOYD

RESOLUTION NO: 10-05
MEETING DATE: MARCH 10, 2010

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: BREEDEN, CUEVAS, EBERLY, FLOYD, KYGER

NAYS: NONE

ABSENT:

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RECESS.

At 4:20 p.m. Chairman Cuevas declared the meeting recessed for dinner.

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PUBLIC HEARING – SPECIAL-USE PERMIT REQUESTS.

At 6:00 p.m. Chairman Cuevas opened the public hearing and Ms. Stultz reviewed the following special-use permit applications:

SUP-171 Houff's Feed & Fertilizer Co., Inc., 97 Riverside Drive, Weyers Cave for storage of industrial sludge in an agricultural structure on property located on the north side of Iron Horse Road (Route 994) approximately 9/10 mile west of Cross Keys Road (Route 276); Election District #3; Zoned A-2; Tax Map #150-(A)-39A.

Ms. Stultz reported that the Building Official received certification from an engineer that the structure is Code-compliant. The structure is proposed for a commercial use and will no longer be considered agricultural.

Tim Grove, manager of biosolids operations for Houff's Feed & Fertilizer, stated Houff's has land applied municipal and industrial sludge in the County for 20 years. Houff's activities are regulated by the Virginia Department of Environmental Quality and the handling of municipal and industrial sludge is prescribed by state law, Mr. Grove said.

Land application is restricted during inclement weather, which minimizes the chance for run-off of nutrients into waterways or groundwater. The weather restriction forced the need for storage of these materials during times when sludge is produced but cannot be land applied.

Additional capacity is needed to store additional sludge from White Wave and other clients who have increased sludge production. Mr. Grove explained that sludge is a byproduct of removing organic materials when cleaning machines used in food processing. These food ingredients would release nitrogen and phosphorous into streams if not managed properly. The sludge is tested to meet state requirements for land application, Mr. Grove said.

Sludge is currently transported to Frederick County, Maryland for storage and land application in that area. Since there are fewer restrictions on industrial sludge in Maryland, storing the sludge locally, where there are greater regulations, will provide better protection of the Chesapeake Bay. Mr. Grove noted that the cost to transport the sludge to Maryland is significant. Contractors ran out of storage capacity in Maryland earlier this year due to snow; therefore, sludge from White Wave was sent to the Harrisonburg Rockingham Regional Sewer Authority (HRRSA), which caused issues for that plant and was expensive for White Wave.

In response to concerns from citizens regarding the environmental impact of the proposed site and potential impact on traffic, Mr. Grove reported that Houff's has worked extensively with DEQ to ensure the site is adequate and in compliance. Sludge will be transported on tractor-trailer tankers with approximately 300 loads transported a year. Houff's plans to spread as much sludge as possible onto adjacent farms. Sludge will be transported on rainy days and in the winter when residents are inside. Houff's has pledged a maximum truck speed of 25 MPH and spray calcium chloride on the road to limit dust problems, Mr. Grove said.

Karen Smith, who lives down river from the lagoon, expressed concern about the distance from the lagoon to the river, and the depth of the lagoon and wells on that property as materials can seep out in a porous environment. She also questioned the effect on the river, wells and fish. She would like to know what chemicals will be used at the site and what chemicals are already added to the sludge, as well as whether the sludge is toxic and will have an odor. She is also concerned the lagoon will affect property values. Since Iron Horse Road is very narrow and has potholes, she thinks it will need to be paved. She does not understand why a sludge pool is being located so close to the river as there has been a 100-year and 200-year flood in that area.

Mr. Grove stated the lagoon is 1,000 feet or more from the river. He explained that most lagoons are established down gradient from the farms they serve. A lot of this land is in the floodplain but he indicated water does not flow into this pond because it is at the top of a hill. The minimum distance required between the bottom

of the liner and the water table is two feet, but this liner has 70 to 80 feet of clay between the bottom of the lagoon and the liner, he said.

In response to questions from Supervisor Kyger, Mr. Grove indicated Houff's contracts with companies located in and outside Rockingham County which are food-related industries such as White Wave, McKee Foods, Hershey Chocolate, Coors Brewing Company and Ariake. He said sludge from Ariake will continue to be transported to Maryland due to odor issues. For this particular lagoon, 90% of the sludge will come from White Wave and 10% from McKee Foods. Mr. Grove said Houff's has spread sludge from White Wave since July 1, 2009 with no odor complaints, but they have not stored White Wave's sludge yet. Typically sludge gets a crust on top that seals in the odors so it only smells when agitated in the spring and is concentrated to a couple of days. DEQ has provisions for odor control, Mr. Grove said. If odors from the lagoon cannot be controlled, Houff's will stop using the lagoon.

Amanda Buchanan, a resident of Iron Horse Road, stated the road is 16 feet wide and if it was ever paved it was more than 35 years ago. The road is semi-annually stabilized with tar and chip. She said the trucks carrying sludge will weigh up to 84,000 pounds. Since the trucks are 9'9" wide, if another vehicle heading in the opposite direction passes one of the trucks, someone will have to go off the pavement, Ms. Buchanan said. She also noted that sight distance is not good at a turn near her home. Houff's promised to travel a maximum speed of 25 MPH on this road but Mr. Mason at VDOT told Ms. Buchanan that the road would not be posted so legally the trucks can travel at 55 MPH. She stated there is an odor from White Wave and the lagoon is at the same elevation as her upstairs bedroom window. Ms. Buchanan's well is 234 feet deep and gets heavy sediment in it when the river is muddy. She does not want phosphorous from industrial sludge in her drinking water. Ms. Buchanan wondered who would own the sludge once Houff's removes it from the industries. If Houff's owns the sludge and the property where the sludge is stored, they can spread as much sludge as they want on their property without DEQ approval. Ms. Buchanan provided photographs of the road and area for the Board to review.

Mike Lautigar noted he and his wife purchased property on Iron Horse Road in 1979 and lived there five years; they now rent that property. He learned about the special-use request on Friday. His property is 500 feet from the Van Ike property and 900 feet "as the crow flies" from the proposed lagoon. He said the proposal indicates the right-of-way is 16 feet wide; however, the road is 13 to 14 feet wide in some places and is too narrow for trucks. His concern is the ongoing monitoring of potential contaminants in the well water and he wonders what will happen to the quality of the well water if the lagoon overflows or there is leaching into the ground water. He understands that once a well is contaminated, it can remain contaminated forever. He asked who will monitor the water and clean it up if there are problems. The number of trucks in the request is "more than 20 in the spring and summer" which could be 100, Mr. Lautigar said. The potholes in the road will get worse with heavy truck traffic. He also expressed concern about the impact on property values if there are odor issues.

Neil Sacra, a landowner in the area, noted there are several underground culverts along Iron Horse Road and said water from floods in 1985 and 1995 flowed into those culverts. If the lagoon overflows, the water will flow through the culverts to the river. He is not sure these culverts can withstand the weight of the trucks. He said something needs to be done about the width of the road and noted the proposed traffic is unacceptable. The road has tar and chip to a point, but most of the road is dirt and gravel and is currently muddy. If the request is approved, he suggested White Wave spend the money they currently pay to transport sludge to Maryland to repair the road.

Josh Jarrels, who lives at the intersection of Iron Horse Road and Cross Keys Road, noted this road is not meant to handle a lot of traffic. He said residents may have property damage where vehicles need to get off the road. He is also worried about the hazardous material and how toxic it will be to the stream. He and his wife work shift work and sleep during the day so he is concerned about noise made by the trucks using their jake brakes.

Brad Clatterbuck estimated the distance from the lagoon to the river at 100 yards. Since landfills cannot be located on sink holes or in flood zones, he is surprised a storage facility for industrial sludge can be put in a lagoon in a floodplain. He said the road is a big issue as Iron Horse is a dead-end road so trucks will have to exit from the lagoon the same way they access it. He stated the contract between Houff's and the farmer requires the lining only be inspected once a year and the site will be self-monitored according to the DEQ. They will check on it periodically but rely on the parties involved to monitor it, Mr. Clatterbuck said.

Chairman Cuevas asked those in attendance that were against this request but had not spoken to raise their hands. Approximately six people raised their hands.

Anita Parkinson has lived on Iron Horse Road for 38 years. The farm she and her husband own is on both sides of the road and their spring is right next to the road. She crosses animals from one side to the other daily. She questioned why the Houffs did not put the lagoon on land where they already have a business with access to a hard surface road.

Jonathan Garber, the principal engineer at Lineage Architects in Verona, said he is in favor of the lagoon. He has a Masters degree in Civil Engineering with a focus in Environmental Science, and is certified by the USDA to provide technical services in the design, maintenance and operation of wastewater and storage facilities. Mr. Garber has no contractual relationship with Houff's but does have one with Kevin Craun, who is attempting to improve a facility on another section of his farm. Mr. Garber stated the Virginia Society of Civil Engineers Report Card on Infrastructure indicates Virginia will spend more than \$600 million a year over the next 20 years on waste. He explained that this lagoon is an existing facility that has been in operation since 1986 and has not failed. He has inspected the facility and stated it is not subject to run-off or flooding. It is structurally adequate. He noted it is a lagoon in a technical

sense, not a sinkhole. Houff's has provided biosolid services to Mr. Garber's farm for 20 years and an odor can only be detected if he sniffs outside. Mr. Garber lives on a dead-end state road which has been improved by Mr. Grove and his staff. He stated Houff's is an excellent "neighbor."

Kevin Craun rents the lagoon to Houff's and stated the contract allows him to terminate it at any time if there are issues or odor. He said environmental concerns have to be mitigated as consumers tend not to think about the process behind products they purchase. Mr. Craun stated the environmental impact is less than poultry litter which is a 1:3 ratio of nitrogen to phosphorous, as sludge is a 1:1 ratio. Mr. Craun assisted Virginia Tech with a phosphorous study which found high phosphorous levels in the County from poultry litter. Mr. Craun said the lagoon has very low permeability and less impact than most drain fields. In comparing his lagoon to the Harrisonburg Rockingham Regional Sewer Authority (HRRSA), he noted HRRSA has less regulations, is closer to the river and their sludge pit is twice the size of his lagoon. He said if private entities are held to a higher standard than the HRRSA perhaps the sewer authority should handle all the municipal and industrial waste and let taxpayers pay for it. In response to traffic concerns, Mr. Craun noted there are two trucking businesses on Iron Horse Road and if the road is adequate for those businesses with tractor trailers and heavy dump trucks, it should be adequate for trucks hauling sludge.

Ms. Stultz noted Mike Lautigar was not notified of this special-use request because he is not an adjoining landowner; all adjoining landowners were notified. She stated VDOT is one of the review agencies on all special-use permits. In response to Supervisor Kyger's question regarding whether the spreading of sludge is regulated, Ms. Stultz stated the County has an inspector for the spreading of sludge, and the operation of the lagoon will be regulated by DEQ.

SUP-172 Houff's Feed & Fertilizer Co., Inc., 97 Riverside Drive, Weyers Cave for storage of industrial sludge in an agricultural structure on property located on the north side of Western View Road (Route 846) approximately 700 feet west of South Whitesel Church Road (Route 681); Election District #3; Zoned A-1; Tax Map #138-(A)-8.

Ms. Stultz noted most of the considerations for this request are the same as the previous request but this one is for a manure storage tank which will hold approximately 50 truckloads of sludge.

Mr. Grove stated the Jordan storage tank is permitted by DEQ to receive municipal and industrial sludge and has been in operation for 15 years with no complaints. A concern was raised about the adequacy of the entrance onto the property and Houff's plans to make improvements to meet VDOT standards if this request is approved.

No opposition was expressed.

SUP-025 L H & H, LLC, 2694 Eversole Road, Harrisonburg for a weekend flea market (Friday, Saturday and Sunday) on property located on the west side of North Valley Pike (Route 11) approximately 400 feet south of I-81 251 interchange; Election District #2; Zoned B-1; Tax Map #95-(9)-1A and #95-(A)-61.

Ms. Stultz reported that this special-use permit request is the result of a zoning violation.

In response to a question from Supervisor Eberly, Ms. Stultz said the flea market which was denied on this property in 1989 was proposed to be on the northern portion of the property.

No one spoke regarding this request.

SUP-177 B.P.M.L. Properties, LLC, 14016 Spotswood Trail, Elkton for a residence involving a division of land on property located on the southwest side of Spotswood Trail (Route 33) and Rockingham Pike (Route 981); Election District #5; Zoned A-1; Tax Map #130-(A)-9.

Applicant Pete Bonavita stated this property is part of the 15 acres zoned A-1 behind the shopping center. He is in the process of making a boundary line adjustment with Elkton on 55 acres across the road. He questioned whether that property would automatically be zoned R-1 once it belongs to Elkton and have to be rezoned, in which case he may not need a special-use permit for this particular site. Administrator Paxton replied that parcels can be partially in a town and the County so he needs to continue with this special-use request. Supervisor Breeden clarified that this site is part of the Downey property and is the last parcel Mr. Bonavita owns on the south side of Route 33. Supervisor Kyger clarified for the Board that this property is not the same as that in the boundary line adjustment with Elkton.

Rebecca Monger stated she is not opposed to the division but would be opposed to a residence built on it. She owns property nearby that she rents for an industrial purpose and the other property in that area is zoned business. She does not want to see a home in the middle of a commercial area.

Bobbie Monger questioned whether this property will be sold for a residence or if that is just the next step in the zoning process. Administrator Paxton clarified this property is currently zoned A-1 and the only way to divide the property from the parent tract is with a special-use permit which would allow a house to be built on the property. The property would need to be rezoned for any other use after it is divided.

Mr. Bonavita stated he plans to market the property for commercial purposes and he is willing to sign a document to that effect.

SUP-006 Skyline Storage, LLC, 17817 Mt. Pleasant Road, Elkton to convert existing poultry house to mini-warehousing on property located on the east side of Mt. Pleasant Road (Route 623) approximately 1/2 mile northwest of Tanyard Bridge Road (Route 634); Election District #5; Zoned A-2; Tax Map #131-(A)-177C1.

Ms. Stultz reported that she provided the Board with two e-mailed letters received from Mr. Bonavita today.

Applicant Pete Bonavita explained that he withdrew his application for this property in 2008 because the County was drafting new special-use permit language. His request was approved under the old language which was vague and required all work to be completed within two years. The current special-use permit is clearer and allows the applicant six years to complete a project.

Mr. Bonavita received an unsigned letter which referenced fire, safety and traffic concerns. Mr. Bonavita indicated professionals have reviewed these issues three times and provided recommendations. The letter alleges the storage units are secluded and even with security cameras will have a high risk of illegal activities such as storing and dealing drugs. Mr. Bonavita acknowledged that the buildings are secluded from the public road but he intends to install a security system with an automatic gate when the entire project is completed. The Fire Marshal has assessed the building for safety issues. Mr. Bonavita indicated he removed propane gas heaters and shavings used in the poultry operation that had a higher likelihood of fire than the storage units and items stored in them. There are a number of storage businesses in the County but Mr. Bonavita stated he is not aware of fire problems at any of them.

Mr. Bonavita, a retired police officer and narcotics investigator, said drug dealers would not sell drugs on a road with only one exit and security cameras. He has never heard of a drug dealing case at a storage unit.

Mr. Bonavita reported that he began the entire project and made a significant investment to comply with the conditions of his special-use permit but was unable to complete the project within two years. One building is in use with no illegal activity, fire issues or traffic problems. He stated he would not have made such a large investment for one six-unit building.

Mr. Bonavita noted the proposed use is compatible with surrounding uses, is not detrimental to the character of adjacent land, is consistent with the County Code and is in the public interest. The storage facility is an improvement over what was there before, he said.

Patricia Smith, who lives on Mt. Pleasant Road in Elkton, stated she is in favor of this request and previously wrote to each Board member stating this storage facility would be an asset to the community. She noted that she visited the property after Mr. Bonavita made improvements and landscape work was performed.

Duane Lam, who was raised in the Mt. Pleasant area but does not currently live there, stated he has been friends with Mr. Bonavita for more than 20 years and Mr. Bonavita is a man of integrity. Mr. Lam said Mr. Bonavita should be allowed to continue with his project in the spirit it was intended. He noted that his mother, father and grandmother live in the Mt. Pleasant area and are all in favor of the special-use request.

Bill Hisey, a resident of Mt. Pleasant Road, stated in 2008 he was upset because his trees were cut down by Mr. Bonavita but he is no longer angry about that. However, he is a concerned property owner. He is against residential or commercial storage units in that area. Mr. Hisey said he does not know what type of security is at the storage facility but noted there is a lot of traffic late at night and early in the morning as vehicles drive past the converted storage shed. He has found fast food wrappers on his property so there is a trash problem. People drive around the chain at the entrance to Mr. Bonavita's property and he has been told that people party there. Vehicles travel across Jim Lawson's property and other neighboring properties to access Mt. Pleasant Road. There are also four-wheel trails through the woods, Mr. Hisey said. Mr. Hisey said Mr. Bonavita previously indicated there is a need for storage units in Elkton, but there are three storage facilities in Elkton and one across from the Massanutten entrance, Mr. Hisey said.

Jim Lawson, a Mt. Pleasant Road resident, provided a handout showing 33 homes adjoining Mr. Bonavita's property. This area is zoned A-1 in the Comprehensive Plan and Mr. Lawson said A-1 dominates all other zonings so this is an agricultural parcel. Other businesses that have been in this area were "mom and pop shops." Mr. Lawson noted the storage units are under a tree canopy and may contain gas and paint. He stated the nearest fire hydrant is one mile away. Mr. Lawson indicated people cross his property to access Mt. Pleasant Road from Mr. Bonavita's property. He said the chain across the entrance has been cut and is laying on the road. The neighbor next to Mr. Hisey has filmed cars racing on the driveway and four-wheel vehicles used for hunting traveling across the property. Mr. Lawson said he has not seen any security on this property. He is concerned about unusual activity, pollution and trash thrown over the bank. He does not want a storage facility in an agricultural area.

Roger Breeden lives on Mt. Pleasant Road and said he strongly opposes this request.

Mr. Bonavita said there was a chain across the entrance during hunting season due to poaching and stated an off-road vehicle would be necessary to get around the

chain. The chain was broken while it was under the snow after the snowstorm. He stated he cannot stop vehicles from crossing other people's land. Mr. Bonavita intended to install a good security system with an automatic gate when the entire project was finalized. He said people apparently used this road, which has been there 20 to 25 years, previously.

Chairman Cuevas closed the public hearing at 7:58 p.m. and reconvened the regular meeting.

Supervisor Breeden stated he owns a business that also works at a site where Houff's works. Although he believes he can be objective and there is no direct conflict, he recused himself from voting.

Supervisor Floyd made a motion that the Board deny Houff's Feed & Fertilizer Company, Inc.'s request for storage of commercial sludge on Iron Horse Road. Supervisor Kyger seconded the motion.

Supervisor Kyger stated he seconded the denial primarily due to safety issues on that particular road. He thinks Mr. Craun and Houff's would be good stewards, but the ingress and egress, and the number of trucks traveling on the road daily pose a considerable risk to the greater good of the community. Twenty trucks traveling on a small road that has that many inhabitants is dangerous, Supervisor Kyger said.

Supervisor Eberly said he applauded Mr. Craun for his thinking and sound care of the land. However, he sees the traffic and condition of the road as an issue for people who live on Iron Horse Road.

Supervisor Floyd stated his primary opposition is due to safety issues and the overwhelming opposition from people who live along that road. Their safety needs to be considered in this decision, he said.

By a vote of 4 to 0 to 1, voting recorded as follows: BREEDEN - ABSTAIN; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board denied SUP-171, Houff's Feed & Fertilizer Co., Inc., 97 Riverside Drive, Weyers Cave for storage of industrial sludge in an agricultural structure on property located on the north side of Iron Horse Road (Route 994) approximately 9/10 mile west of Cross Keys Road (Route 276); Election District #3; Zoned A-2; Tax Map #150-(A)-39A.

Supervisor Floyd indicated there was no opposition from residents of the community and this storage system appears to be safe.

On motion by Supervisor Floyd, seconded by Supervisor Eberly and carried by a vote of 4 to 0 to 1, voting recorded as follows: BREEDEN - ABSTAIN; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; and subject to the following conditions, the Board approved SUP-172, Houff’s Feed & Fertilizer Co., Inc., 97 Riverside Drive, Weyers Cave for storage of industrial sludge in an agricultural structure on property located on the north side of Western View Road (Route 846) approximately 700 feet west of South Whitesel Church Road (Route 681); Election District #3; Zoned A-1; Tax Map #138-(A)-8.

1. Use shall be located in substantial accordance with plot plan as approved.
2. Engineered certification shall be presented to the Building Official showing that the lagoon is Code compliant.
3. All DEQ requirements shall be met with regard to storage, transport, and spreading of industrial sludge.
4. An entrance permit shall be obtained from VDOT’s Residency Office prior to any work on the right-of-way.
5. No trucks shall be loaded or unloaded from the road. The trucks shall be located on the private property during loading and unloading.

Supervisor Breedon stated he is always concerned about dividing A-1 property for residences but Mr. Bonavita intends to use this property for commercial use, and it should have been divided previously.

On motion by Supervisor Breedon, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; and subject to the following conditions, the Board approved SUP-177, B.P.M.L. Properties, LLC, 14016 Spotswood Trail, Elkton for a residence involving a division of land on property located on the southwest side of Spotswood Trail (Route 33) and Rockingham Pike (Route 981); Election District #5; Zoned A-1; Tax Map #130-(A)-9.

1. Use shall be located in substantial accordance with plot plan as approved.
2. Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
3. If a division of land is made, but a residence is not constructed on the property within the time period allotted by the special use permit regulations, the property shall have to comply with whatever zoning laws are in existence at that time.

4. As stipulated by the Health Department, this request is contingent upon the property being served by public utilities.
5. An entrance permit shall be obtained from VDOT, and a copy of the permit shall be submitted to the Community Development Department prior to issuance of a building permit.
6. The entrance shall be completed prior to anyone occupying a dwelling on the property.
7. The residence shall not be occupied until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Supervisor Breeden stated when this request came before the Board in 2006, there was very little opposition and significant growth was planned for that area with the Angler Development. Development plans for that area have changed, as he discussed with Mr. Bonavita in 2008. He recommended denial of this request.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board denied SUP-006, Skyline Storage, LLC, 17817 Mt. Pleasant Road, Elkton to convert existing poultry house to mini-warehousing on property located on the east side of Mt. Pleasant Road (Route 623) approximately 1/2 mile northwest of Tanyard Bridge Road (Route 634); Election District #5; Zoned A-2; Tax Map #131-(A)-177C1.

Supervisor Eberly said the proposed location of the flea market is where North Valley Pike becomes a divided highway at the interchange to Interstate 81. The Board has previously discussed the dangerous traffic conditions at this intersection. He noted that he did not think motorists could safely navigate this intersection and said putting a business at this location would be dangerous.

Supervisor Eberly also expressed a concern about the ability to regulate cars parking along the road at the intersection of 81 North of Harrisonburg on Route 11. A flea market on an empty lot seems like a good idea but he believes this is an unsafe location and, therefore, he made a motion to deny the special-use request.

On motion by Supervisor Eberly, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board denied SUP-025, L H &

H, LLC, 2694 Eversole Road, Harrisonburg for a weekend flea market (Friday, Saturday and Sunday) on property located on the west side of North Valley Pike (Route 11) approximately 400 feet south of I-81 251 interchange; Election District #2; Zoned B-1; Tax Map #95-(9)-1A and #95-(A)-61.

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OTHER BUSINESS.

Administrator Paxton reported that the Commonwealth Transportation Board will meet on March 17, 2010. Consideration will be given to award bids for Route 820 (Bergton Road) and Route 253 (Port Republic Road). A proposed letter to the new Secretary of Transportation, Sean T. Connaughton, was circulated to the Board for consideration and signature by the Chairman. By consent of the Board, Administrator Paxton was instructed to send the letter to Secretary Connaughton.

ADJOURNMENT.

Chairman Cuevas adjourned the meeting at 8:09 p.m.

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Chairman